

## CITY OF WESTMINSTER

### AGENDA ITEM PLANNING COMMISSION

January 20, 2016

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**TO:** Planning Commission

**FROM:** Art Bashmakian, AICP, Planning Manager *AB*  
By: Steven Ratkay, AICP, Associate Planner *SR*

**SUBJECT:** Case No. 2015-60. Setback Variance.

**LOCATION:** 15771 Condon Circle (Assessor's Parcel Number 143-432-03)

**RECOMMENDATION:** Approve, with conditions.

**APPLICANT:** Dale Winter  
15771 Condon Circle  
Westminster, CA 92683

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### PROJECT DESCRIPTION

The applicant is requesting a variance to allow a portion of an existing patio cover to extend into the required rear yard setback of a single-family home. The subject parcel has an irregular (non-rectangular) shape and a triangular portion of the existing patio cover is setback 5-feet and ten-inches from the rear property line. Title 17 (Land Use) of the Westminster Municipal Code requires a minimum rear yard setback of 10-feet for patio covers in the R1 (Single-Family Residential) zoning district. The subject parcel, house and patio cover are shown on the attached aerial view (see Attachment No. 3) and the attached site plan (see Attachment No. 4) illustrates the ten-foot rear yard setback line and the portion of the patio that projects into the setback area. Attachment No. 6 includes photographs of the existing patio cover as viewed from the subject parcel.

### BACKGROUND

There are no known permits approving the existing patio cover and therefore, the date of its construction is uncertain. There are City records (building permit) verifying that the house was constructed in 1968 and the applicant has provided letters from two separate nearby residents (see Attachment No. 5), whom state that the patio cover has been in existence since 1977. The applicant, according to County Assessor's data, purchased the house in 1994. In 1996, the applicant obtained a permit from the City to re-roof the existing house and while the patio cover is shown on the drawings

associated with the re-roof permit, the permit does not address the status of the patio cover since the re-roof permit is limited in scope to the replacement of the roofing materials.

In July 2015, the resident residing at 15762 Earl Circle, which abuts the rear yard of the subject parcel, contacted the City's Code Enforcement Division regarding the patio cover and expressed concern that the subject patio cover is set too close to the shared rear property line. Consequently, the unpermitted nature of the patio cover was brought to staff's attention. Because there are no records to establish that the existing patio cover was constructed with permits, the patio cover cannot be classified as a "legal-nonconforming" structure. Therefore, a variance is required to maintain the existing encroachment into the required rear yard setback.

## **ENVIRONMENTAL REVIEW**

The proposed project has been reviewed pursuant to the California Environmental Quality Act (CEQA) and the requirements of the City of Westminster and has been deemed to be exempt from CEQA per Section 15301 (Existing Structures and Facilities) Class 1 which consists of permits and minor changes associated with existing structures and facilities (such as the existing patio cover) where such changes do not result in a negligible change to such existing structures or facilities.

## **PUBLIC NOTICE AND CORRESPONDENCE:**

A public hearing notice was mailed to all property owners of record within a 500-foot radius of the property. The notice included a description of the proposed project and was mailed on January 8, 2016. Notices were also posted at the project site, City Council Chambers, City Hall, and the Library. As of the completion date of this report, staff had received four phone calls regarding the proposed variance. One call was from a resident residing at 15715 Earl Circle (to the west of the subject site and not abutting the subject site). The caller was opposed to granting the variance, however no specific reason was stated. The other three phone calls were inquires as to the nature of the variance and neither caller expressed support or opposition to the variance request. One caller indicated they reside on Westwood Drive (to the south of the subject site), another caller indicated they reside on Calendula Avenue (to the north of the subject site) and the other caller indicated they resided on McDermitt Street (to the south of the subject site), in the City of Fountain Valley. One letter was received (see Attachment No. 7), opposing the variance request.

## **ANALYSIS**

The analysis (including recommended conditions of approval) are contained in the attached draft resolution under *Required Findings*.

**Attachments:**

1. Draft Planning Commission Resolution
2. Applicant's Letter of Justification for Granting a Variance
3. Aerial View
4. Site Plan
5. Letters
6. Photographs of the Existing Patio Cover
7. Letter of Opposition to Granting the Proposed Variance

**PLANNING COMMISSION  
RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF WESTMINSTER APPROVING CASE NO.  
2015-60, A VARIANCE ALLOWING A PATIO COVER TO  
PROJECT IN THE REQUIRED REAR YARD SETBACK AT  
15771 CONDON CIRCLE (APN 143-432-03).**

**WHEREAS**, pursuant to the applicable provisions of the Westminster Municipal Code, the Planning Commission, at its regular meeting of January 20, 2016, held a public hearing to consider an application designated as Case No. 2015-60, filed by Dale Winter, property owner of record.

**WHEREAS**, said application is a request for a variance to allow a 39 square-foot portion of an existing 312 square-foot patio cover to maintain a setback of five-feet and ten-inches within the required rear yard setback, whereas the Westminster Municipal Code (WMC) requires a minimum rear yard setback of 10-feet; and

**WHEREAS**, the Planning Commission, having duly considered all written and oral statements presented in regard to the application, has determined that by incorporating the conditions of approval, the entitlement in this application meets the intent and purpose of the City's Zoning Ordinance and development standards and will not impair the public health, safety, and general welfare; and

**WHEREAS**, the Planning Commission makes the following specific findings of fact related to the environmental review in accordance with the California Environmental Quality Act (CEQA) and the City's guidelines for the implementation of CEQA:

The project will not have any significant environmental impacts and is Categorically Exempt from further environmental assessment under the provisions of the California Environmental Quality Act (CEQA) Class 1, Section 15301 which consists of modifications to existing uses or permitting of existing small facilities (such as the existing patio cover).

**NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:**

**SECTION 1:** Pursuant to Section 15301 of the Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is found to be included in the list of classes of projects which have been determined not to have a significant effect on the environment and which is, therefore, found to be exempt from the provisions of CEQA.

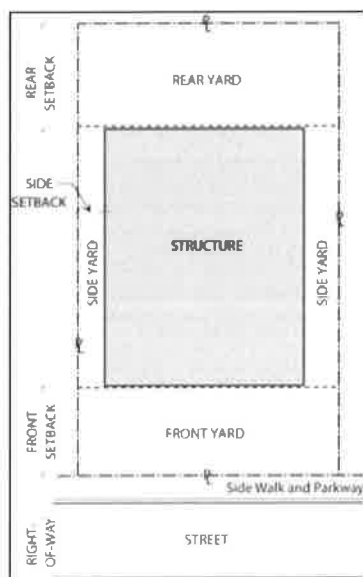
**SECTION 2:** Pursuant to Section 17.555.020 of the Westminster Municipal Code, the Planning Commission makes the following specific findings of fact related to the approval of the Variances.

- A. *There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography) or to the intended use of the property, so that the strict application of this Title denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts;*

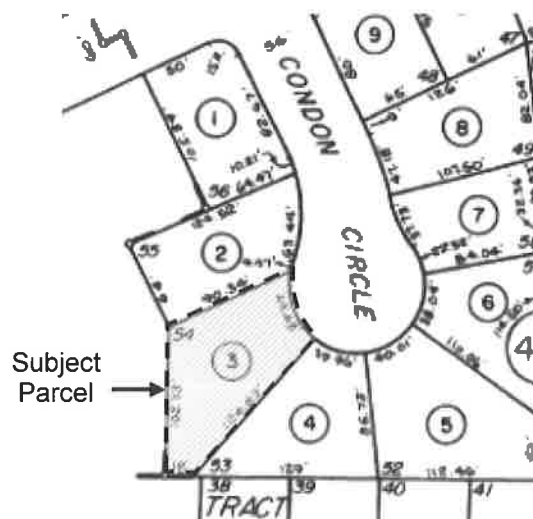
The lot located at 15771 Condon Circle is an irregular shaped parcel that was created in 1968, as part of Tract No. 6343. The width of the parcel's front yard measures 49-feet across, whereas the rear property line measures 102-feet across. The side property lines also vary in length, with a length of 90-feet for the northernmost side property line and a length of 124-feet for the the southernmost side property line. The irregular nature of the parcel's shape is illustrated in the diagram below (on the right).

In contrast, the typical residential parcel located in the R1 (Single-Family Residential) District is rectangular shaped, wherein both side property lines are of equal length to one another and the front and rear property lines are of equal length to one another. This point is illustrated for the zoning definitions of "lot or parcel" and "yard" as found in Article 7 (Definitions) of Title 17 (Zoning Code) of the Westminster Municipal Code (WMC). As shown below (on the left), the diagram used in Article 7 (Definitions) to illustrate front, side and rear yard areas, displays the typical rectangular shaped residential parcel.

Diagram in Article 7 Depicting "Yard" Area



Map Depicting Irregular Shape of Subject Parcel



In addition, the majority of nearby single-family parcels, located on Duke Drive, Empire Lane, Cromwell Circle, Westwood Drive and and Grey Oaks Street are rectangular shaped and all of the parcels on these streets are located within the R1 (Single-Family Residential) District.

Furthermore, the placement and layout of the house at 15771 Condon Circle, which was constructed in 1968, results in an irregular shaped rear yard (yard area between the rear property line and the rear of the dwelling), wherein the depth of the rear yard is at its shallowest point between the rear property line and the rear of the house. At its closest point, the house (excluding the patio cover) is setback 14-feet from the rear property line when measured perpendicular from the rear property line to the nearest wall of the house. In contrast, the typical rear yard setback for a single-family homes is 20-feet in the R1 (Single-Family Residential) District, including nearby homes located on rectangular shaped parcels. Therefore, compared to other single-family homes located in the same zoning district, there are special circumstances applicable to the property so that the strict application of this Title denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

- B. The strict application of the applicable development standard creates an unnecessary, involuntarily created hardship or unreasonable regulation that makes it obviously impractical to require compliance with the development standards;*

The existing patio cover is setback 5-feet and 10-inches at its nearest point from the rear property line. At its farthest point, however, the patio cover is setback 17-feet and 10.5-inches from the rear property line, due to the irregularly shaped rear yard area. As a result, 39 square-feet of the 312 square-foot patio cover (approximately 12-percent of the total area) projects into the 10-foot rear yard setback area. Attachment No. 4 , a site plan, illustrates the irregular shape of the parcel and the portion of the patio that extends into the rear yard setback area.

The rectangular shaped R1 (Single-Family Residential) zoned parcels located nearby the subject parcel have a uniform lot depth of 100-feet. Thus, the length of each side property line is 100-feet. In contrast, the length of the side property line adjacent to the subject patio is 90-feet, which is 10-feet less than that of the typical nearby rectangular shaped R1 (Single-Family Residential) property. Chapter 17.210.015 (Residential Zoning District Development Standards) of the WMC requires a minimum rear yard setback of 10-feet for patio covers in the R1 (Single-Family Residential) zoning district. Therefore, because the length of the side yard at the subject parcel is 10-feet less than the side yard length of a typical residential parcel in the same zoning district and since the 10-foot rear setback applies to all R1 (Single-Family Residential) zoned parcels, regardless of their side yard length, the strict application of the applicable development standard creates an unnecessary,

involuntarily created hardship or unreasonable regulation that makes it obviously impractical to require compliance with the development standards.

- C. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought;*

Unlike the applicant's parcel, other nearby residential parcels in the R1 (Single-Family Residential) zoning district enjoy the benefit of a regularly shaped lot with a typical lot depth of 100-feet, in which compliance with the City's rear yard setback standard can readily be met. In addition, the applicant has submitted two letters (provided as Attachment No. 5) from two nearby residents, stating that the subject patio cover has been in existence since 1977. County Assessor data indicates that the applicant purchased the property in 1994, which is almost two decades after the patio cover may have been installed. The patio cover is also placed to provide access directly from the family room of the house to the rear yard, which is typical of where patio covers are placed. Relocating the patio cover outside of the setback area and away from the family room would deny the property owner the opportunity to use the patio cover in the same manner as other nearby residents. Therefore, considering the subject parcel's reduced lot depth, the ongoing use of the patio cover for the past 39 years and the reduced enjoyment of the patio cover that would result if it was required to be relocated from its current location, granting the variance to allow a portion of the existing patio cover to project into the required 10-foot rear yard setback is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought.

- D. The project is consistent with the General Plan and complies with all other applicable provisions of this Title;*

Deviations from the City's setback standards pertaining to patio covers are not in conflict with the General Plan as the General Plan does not specifically address patio covers, but recognizes that waivers from the code are appropriate when findings can be made justifying the granting of a variance. Based upon the evidence provided herein, a hardship exists related to the subject parcel's irregular lot configuration, reduced lot depth near the patio cover and the placement of the existing home, which constrains use of the rear yard area directly behind the home. With the exception of the encroachment into the required rear yard setback, the patio cover complies with the other required patio cover setbacks specified in Title 17 (Land Use) of the WMC. Therefore, the project is consistent with the General Plan and complies with all other applicable provisions of this Title.

- E. Approval of the variance would not be detrimental to the public health, interest, safety, or general welfare and would not be detrimental or injurious to property or improvements in the vicinity and in the same zoning district.*

Based upon written testimony provided by the applicant (see Attachment No. 5), which consists of letters from two nearby residents, the patio cover has been in existence at least since 1977. Although the continuous use of the patio cover for the past 39 years has not resulted in any known occurrences that have impacted the general welfare of the community, the patio cover appears to have been constructed without the benefit of a permit. Since a primary purpose of obtaining a building permit for any structure is to protect the public health, interest and safety of the community, a condition has been added to require that plans for the patio be submitted to the City and that a permit be obtained for the patio. Thus, by requiring that the patio obtain a permit, and in such process comply with all applicable building and safety regulations, the approval of the variance would not be detrimental to the public health, interest, safety, or general welfare and would not be detrimental or injurious to property or improvements in the vicinity and in the same zoning district.

**NEW, THEREFORE, BE IT RESOLVED,** that the Planning Commission hereby approves Case No. 2015-60, subject to the the following stipulations:

1. The applicant and property owner agree to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of Case No. 2015-60. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City's approval of this project designated as Case No. 2015-60, the applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Westminster's elected officials, appointed officials, officers, and employees. The "applicant" includes the business owner/operator.
2. Within 30 days of this approval, the applicant shall submit plans to the Building Division for the review of the patio cover. The applicant shall verify that the patio cover is no less than five-feet and 10-inches as measured from the nearest point of the patio cover to the rear property line and the applicant shall maintain at all times , a minimum setback of five-feet and 10-inches as measured from the nearest point of the patio cover to the rear property line.



**PASSED, APPROVED, AND ADOPTED** this 20<sup>th</sup> day of January 2016.

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**Chairman of the Planning Commission**

ATTEST:

\_\_\_\_\_  
Secretary of the Planning Commission

STATE OF CALIFORNIA    )  
                                  ) SS.  
COUNTY OF ORANGE    )

I, Art Bashmakian, hereby certify that the foregoing resolution was adopted at a regular meeting of the Planning Commission of the City of Westminster held on January 20, 2016, by the following vote:

AYES:           COMMISSIONERS:  
NOES:           COMMISSIONERS:  
ABSENT:        COMMISSIONERS:

\_\_\_\_\_  
Secretary of the Planning Commission

## **Variance Request for 15771 Condon Circle**

### **Summary Of Applicants Request**

This case involves an existing patio cover, where a corner of the patio encroaches into the required rear setback of 10 feet. Because of an odd shaped lot in a cul-de-sac, the house was constructed on the north side of the property with the house cocked a little sideways. This caused one side of the house to be set back an additional 5'3" from the street. If this was not the case the patio cover would already meet the setback requirement. The applicant is requesting a variance to allow a corner of the patio cover to encroach approximately 4' 2" in the rear setback.

### **Property Description And Background**

The property is located at 15771 Condon Circle in the Westhaven subdivision (tract 6343 lot 54)(APN 143-432-03) where it is zoned R-1, Single Family Residential. The lot is approximately 7,700 square feet in size. It is improved with 2,722 square foot two-story single family home situated on the side of a cul-de-sac on an irregular shaped lot.

When we bought this house in November of 1994 it included the attached patio cover which appeared to have been there since the time the house was built in 1969 because the patio cover had the same original wood shingles as the rest of the house.

We filed a code enforcement complaint on a neighbor who installed a pool slide and diving rock platforms 3 to 5 feet from their property line directly across from our family room where we spend most of our time. As a result of this we also received a code enforcement complaint on our patio.

In 1996, a little over a year after buying the house we had it re-roofed including the patio cover. We had an engineer do the load factoring for the permit. The City Of Westminster planning department signed off on the patio cover re-roof and gave us the permit. The zoning department also approved the permit at the time.

The patio cover is attached to our family room and kitchen where we spend most of our time. It faces the west providing cover from the afternoon sun.

We are requesting a setback variance because a corner of the patio does not meet the 10 feet rear setback requirement. The existing patio cover starts off with a corner that is only 5 feet 10 inches from the property line and then quickly tapers away from the adjoining property until it is 17 feet 10 ½ inches away from the property line.

Included in meeting the 5 required criteria for a variance here are some reasons you may be willing to approve a variance for this property:

1. If you take into consideration the shape of the lot you may possibly define the patio cover as being situated on the side yard. Due to the property's irregular shape being located on the side of a cul-de-sac the house sits like it is sideways. A side yard only requires a 5 foot setback.
2. In 1996, a year and ½ after we bought the house we had the patio wood shingle roof replaced with tile as part of the whole house being re-roofed. The city planning department and zoning signed off on the patio roof (I would assume this is the cover) at that time. They must have felt the patio was safe and conforming to the neighborhood because they never questioned whether there was a permit or variance for the patio.
3. A patio cover setback variance was approved for a home just one block over at 15751 Earl Circle and some other homes in the area have also had similar variances approved.
4. The patio cover has at least been located at the house since 1977 and more than likely since the house was built in 1969 because it had the same wood shake roof as the rest of the house when the wood shingles were replaced in 1996. None of the neighbors have ever had a problem with the patio cover being there until I filed a code enforcement complaint against my neighbor which resulted in me receiving a complaint as well.  
We have included two letters from neighbors who state the patio cover was there in 1977 and 1978 when they moved into the neighborhood.
5. Because the house is located on the side of a cul-de-sac and is on an irregular shaped lot the house was built in such a way where the right side of the house is further away from the front property line by 5 feet 3 inches versus the left front of the house. The lot is also 10 feet shorter from the front to the back than the majority of the houses in the tract. When they built the patio cover to be a standard 12 feet wide they ended up with the corner of the patio only being 5 feet 10 inches from the property line.

**Attachments:**

Variance Criteria Questions And Answers

Site Map

Patio Cover Measurements

Letter/Affidavits From Don Deering and James Stratton

Re-roof Permit and Engineering Report

Google Satellite Map

Pictures of Patio Cover Set Back That Was Approved One Block Over

Pictures Of Patio Cover

## **Variance Criteria Questions And Answers**

1. There are special circumstances applicable to the property (e.g. location, shape, size, surroundings, topography) or to the intended use of the property, so that the strict application of this Title denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts:

The strict application of the 10 feet setback denies this property owner privileges enjoyed by the majority of property owners in the same neighborhood vicinity of this property.

Tearing down the patio cover may adversely affect the value of this property and the surrounding properties.

15771 Condon Circle (tract 6343 lot 54) is located on a cul-de-sac on an irregularly shaped lot. The lot is zoned R-1 Residential. The minimum rear setback is 10 feet. The depth of the majority of the lots in the neighborhood are 100 feet. The lot for this property is only 90.3 feet.

Because of the irregularity of the lot and that the lot is shaped like an inverted corner lot the front of the house had to be set back further from the front left corner setback because of the inverted curvature of the house lot. If you look at the site map you will see that the left front of the house is setback 39 feet 8 inches while the right front of the house is setback 34 feet 5 inches. This makes the rear of the house setback about 5 feet 3 inches shorter than it would be. The patio cover is 5 feet 10 inches from the property line at one corner and then it tapers up away from the adjoining property.

The majority of the lots in the neighborhood have a 100 foot depth. This house lot has a 90.3 foot depth.

If you look at how the house is situated on the irregular shaped lot you may say the house is on the lot sideways and that the patio is located on a side lot. This would make the setback requirement only 5 feet instead of 10.

There is a home one block over at 15751 Earl Circle that had a setback variance granted for their patio. See attached Google satellite map and picture of their patio cover. There are also other homes in the area that have similar variances.

2. The strict application of the applicable development standard creates an unnecessary involuntarily created hardship or unreasonable regulation that makes it obviously impractical to require compliance with the development standards:

The strict application of the 10 feet setback denies this property owner privileges enjoyed by the majority of property owners in the same neighborhood vicinity of this property.

Because of the irregularity of the lot and that the lot is shaped like an inverted corner lot the front of the house had to be set back further from the front left corner setback because of the inverted curvature of this house lot. If you look at the site map you will see that the left front of the house is setback 39 feet 8 inches while the right front of the house is setback 34 feet 5 inches. This makes the rear of the house setback about 5 feet 3 inches shorter than it would be. The patio cover is 5 feet 10 inches from the property line at one corner and then it tapers up away from the adjoining property.

The majority of the lots in the neighborhood have a 100 foot depth. This house lot has a 90.3 foot depth.

If you look at how the house is situated on the irregular shaped lot you may say the house is on the lot sideways and that the patio is located on a side lot. This would make the setback requirement only 5 feet instead of 10.

There is a home one block over at 15751 Earl Circle that had a setback variance granted for their patio cover. See attached Google satellite map and picture of their patio cover. There are also other homes in the area that have similar variances.

3. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought:

The strict application of the 10 foot setback would deny this property owner privileges enjoyed by the majority of property owners in the same neighborhood vicinity of this property.

The patio cover is located on the west side of the house, providing shade and cover from the afternoon sun. It also reduces the use of the electricity that would be used to cool the house from the additional heat that would be created in the house if the patio cover was not there.

Because of the irregular inverted corner shape of this lot and that the developer had to place the house in such a way as to meet the minimum front setback requirements for the driveway by building the home in a corner of the lot, when building a 12 foot wide patio it did not allow for the room to meet the current required setback of 10 feet. In order to meet the 10 foot setback requirement they would only have been able to build a 5 foot wide porch instead of a patio.

The unique physical circumstances do not exist throughout the neighborhood. The physical circumstances do exist where the homes are located on a corner lot or a cul-de-sac inverted type of lot.

The city approved a variance for a similar circumstance for a house one block over located at 15751 Earl Circle.

4. The project is consistent with the General Plan and complies with all other applicable provisions of this Title:

When we bought this house in November of 1994 it included the attached patio cover which appeared to have been there since the time the house was built in 1969 because the patio cover had the same original wood shingles as the rest of the house.

We filed a code enforcement complaint on a neighbor who installed a pool slide and diving rock platforms 3 to 5 feet from their property line directly across from our family room where we spend most of our time. As a result of this we also received a code enforcement complaint on our patio.

In 1996, A little over a year after we bought this house we had it re-roofed including the patio cover. We had an engineer do the load factoring for the permit. The City Of Westminster planning department signed off on the patio cover re-roof and gave us the permit. The zoning department also approved the permit at the time. They must have felt the project was conforming, safe, and consistent with the General Plan and complies with all other applicable provisions. Otherwise they would have questioned whether I had a permit and variance for the patio cover back in 1996.

The patio cover is attached to our family room and kitchen where we spend most of our time. It faces the west providing cover from the afternoon sun.

The patio cover has at least been located at the house since 1977 (see letter/affidavits) and more than likely since the house was built in 1969 because it had the same wood shake roof as the rest of the house when the wood shingles were replaced in 1996. None of the neighbors have ever had a problem with the patio cover being there until I filed a code enforcement complaint against my neighbor.

I have included a letter/affidavit from Don Deering, a realtor who sold many of the homes in this tract, and now manages over 500 properties. He lived directly behind us at 15762 Earl Circle from 1978 to 1984. In his letter he states he never felt the patio encroached or negatively affected the value of his property. He felt he had no problem selling his house for one of the highest prices at the time.

When the same house directly behind us at 15762 Earl Circle was last sold, it sold for the highest price of three houses on same street that sold within 3 months of each other.

The city approved a variance for a similar circumstance for a house one block over located at 15751 Earl Circle.

5. Approval of the variance would not be detrimental to the public health, interest, safety, or general welfare and would not be detrimental or injurious to property or improvements in the vicinity and in the same zoning district:

In 1996, a little over a year after we bought this house, we had it re-roofed including the patio cover. We had an engineer do the load factoring for the permit. The City Of Westminster planning department signed off on the patio cover re-roof and gave us the permit. The zoning department also approved the permit at the time.

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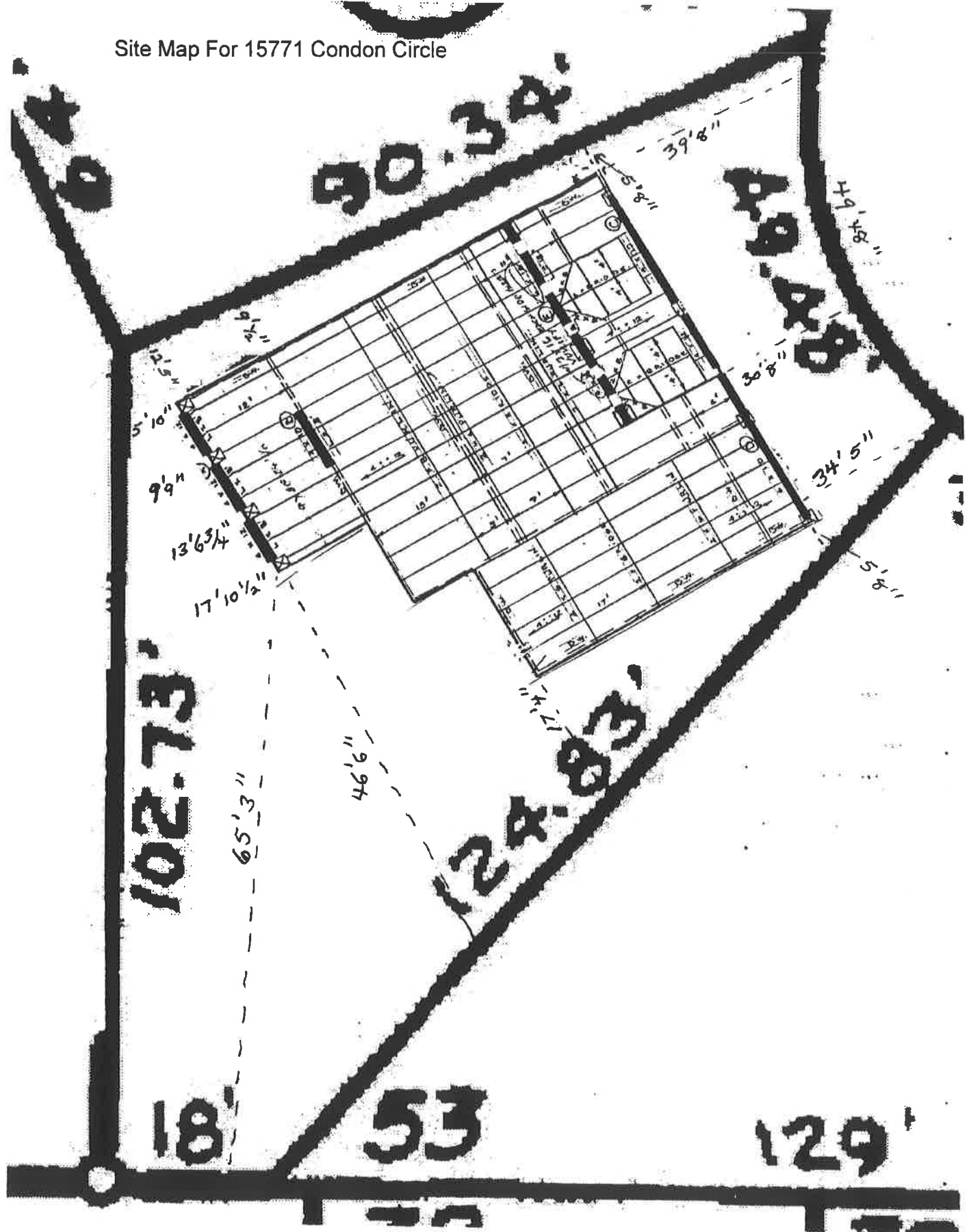
The building inspector and planning department must have felt the patio cover was safe and conforming to the neighborhood in 1996 when the patio cover was re-roofed because they assumed the patio cover was already permitted and met the setback requirements. Otherwise they would have brought up this situation at that time.

I have included a letter/affidavit from Don Deering, a realtor who sold many of the homes in this tract, and now manages over 500 properties. He lived directly behind us at 15762 Earl Circle from 1978 to 1984. In his letter he states he never felt the patio encroached or negatively affected the value of his property. He felt he had no problem selling his house for one of the highest prices at the time.

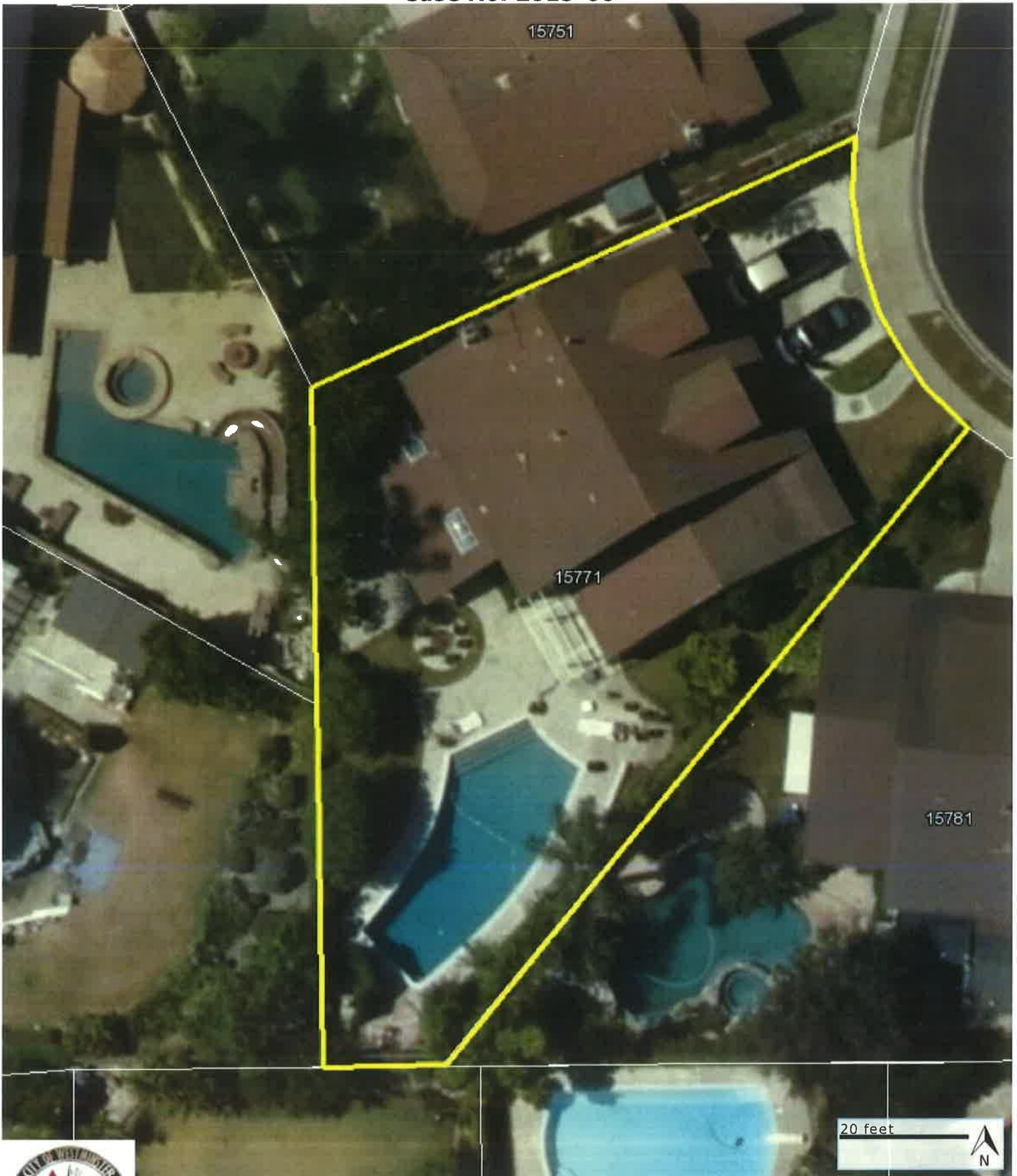
When the same house directly behind us was last sold, it sold for the highest price of three houses on the Earl Circle that sold within 3 months of each other.



Site Map For 15771 Condon Circle



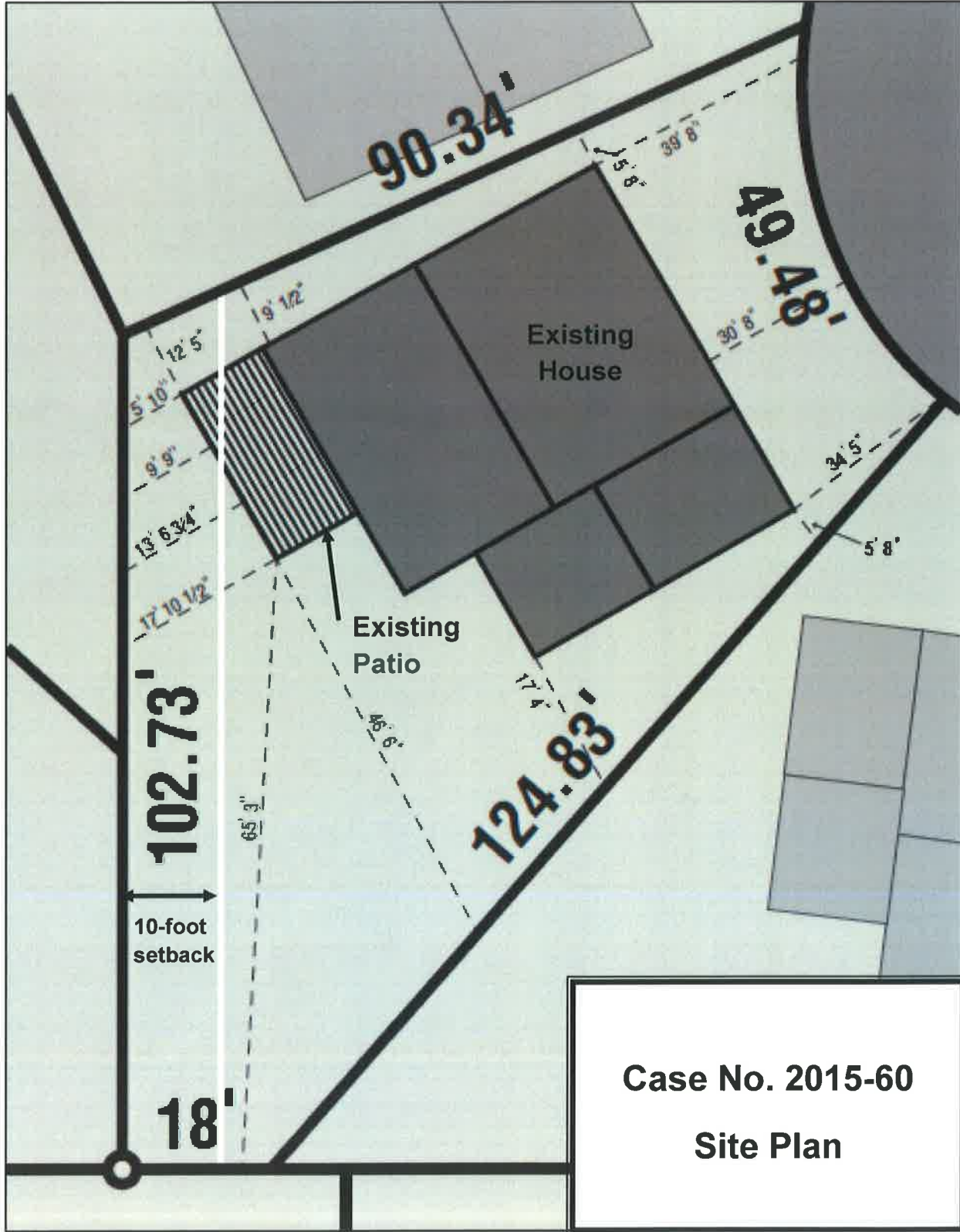
**Aerial View**  
**Case No. 2015-60**



**15771 Condon Circle**

20 feet





November 6, 2015

City of Westminster Planning Commission  
8200 Westminster Blvd.  
Westminster, CA 92683

To Whom It May Concern:

I lived at 15762 Earl Circle in Westminster from 1978 to 1984. My home was located directly behind 15771 Condon Circle and we were personal friends with the previous owners and spent a lot of time visiting with the neighbors under the patio cover in question.

The patio at 15771 Condon Circle was already there when I moved in, in 1978. The patio is beautifully built and we never felt it encroached on our property. We felt it was actually good for our property values because when we sold our house we had no problem selling for one of the highest prices at the time.

I have been a realtor in this neighborhood selling many of the homes in the tract since the 1970's and currently manage over 500 properties. I cannot see how the patio could be a problem. It has not affected the values, safety, or conforming aspects of the neighborhood.

Sincerely,



Don Deering, CPM  
President/Broker  
Lion Properties  
17155 Newhope Street  
Suite A  
Fountain Valley, CA 92708  
714-378-1480



Don Deering  
cpm/broker  
DRE: 00408008

office 714.378.1480 | fax 714.378.1487

email [deardon@lionproperties.com](mailto:deardon@lionproperties.com) | website [lionproperties.com](http://lionproperties.com)

Lion Properties | 17155 Newhope Street, Suite A | Fountain Valley, CA 92708

November 7, 2015

City of Westminster Planning Commission  
8200 Westminster Blvd.  
Westminster, CA 92683

To Whom It May Concern:

I have lived at my address at 15762 Condon Circle in Westminster since 1977. I live across the street from 15771 Condon Circle and was personal friends with all of the previous and current owners of that home.

The patio at 15771 Condon Circle was already there when I moved in, in 1977.

Please feel free to contact me if you need any additional information.

Sincerely,

A handwritten signature in cursive script that reads "James Stratton".

James Stratton  
15762 Condon Cir.  
Westminster, CA 92683  
714-531-7956















The Ramirez Family  
15762 Earl Circle  
Westminster, CA 92683

January 14, 2016

Westminster Planning Commission  
8200 Westminster Blvd  
Westminster, CA

**Received**  
**Community Development Dept.**

**JAN 14 2016**

**CITY OF WESTMINSTER**

Re: Case No. 2015-60  
Application for: Variance  
Applicant: Dale Winter  
Location: 15771 Condon Circle

Dear Westminster Planning Commissioners:

I am reluctant to submit this letter as we are scared of retribution, but my family can no longer live in fear. We would like to put on the record that we are OPPOSED to any Variance being granted to Mr. Winter in regards to his Patio Cover that is currently in violation of City Codes.

We moved into our residence 3 years ago and have invested a large amount of money in our property. Our family was so excited to move into my childhood neighborhood, but this excitement has quickly turned into a nightmare of racial harassment.

Our property directly abuts Mr. Winter's property on the rear property line, so we are the most affected by this variance. We have always wanted to keep good neighborly relationships with all of our neighbors, but unfortunately since the day that we moved in, we have been harassed by Mr. Winter. Mr. Winter's rear-yard patio cover is located 3 feet away from our rear property line (not the 5'10" as indicated in the Public Notice.) Mr. Winter spends most of his days smoking under this patio cover and looking over the 5'6" wall into my backyard. We have no privacy in either our back yard or our home. Furthermore, when Mr. Winter entertains, all of his guests congregate under this patio cover which means that his guests are 3 feet away from our rear property line. We are concerned for our family's privacy and safety, especially because we have a minor son.

I was approached by the City of Westminster last summer in response to many complaints made by Mr. Winter in regards to our pool slide being too close to the rear property line and not to code. During my meeting with the code enforcement officer, I complained about the proximity of Mr. Winter's patio cover being too close to our property line in violation of City codes. At this point, we decided that, in

the interest of neighborhood harmony, we should try to make peace with Mr. Winter. We tried to resolve this matter amicably by proposing that we raise our common property wall. (This would also solve the unsettling problem of Mr. Winter watching our every move inside and outside our home.) His reaction was negative and instead Mr. Winter suggested that we move out of our home, citing that "we didn't belong in this neighborhood." I was aghast at this blatantly racist comment, especially as my daughter heard the comment as well. My daughter expressed how scared she was of Mr. Winter and couldn't believe that racism existed in Westminster. At this point, the Code Enforcement Officer told me that I needed to comply and remove my pool slide and that as soon as I removed my pool slide, Mr. Winter would be forced to come into compliance and remove his patio cover to the 10-foot required setback. Trying to being a compliant citizen, we removed our slide at great financial expense as we were unable to afford both the Variance fee of \$3,500 and the potential removal cost of our slide if we ended losing our Variance request. To our surprise, after we removed our slide, we were notified that Mr. Winter had applied for a Variance and that the City had waived the Variance fee of \$3,500. We were never given the option of having our Variance fee waived and had we known that this was an option, we would have, of course, applied for a Variance. This is entirely unfair and there appears to be a double-standard with how Mr. Winter is being treated versus how my family has been treated. We respectfully request that our family be treated fairly and be given the same courtesies as have been extended to Mr. Winter. Please direct Mr. Winter to come into compliance and set - back his patio cover to the required minimum 10 foot rear-yard setback. It is unacceptable that the closest point of Mr. Winter's patio cover is only 3 feet from our property line.

We would like to request, in advance, any copies of transcripts and/or audio recordings of the upcoming 1/20/16 Public Hearing in this regard.

Respectfully submitted,

Alberto and Veronica Ramirez

Cc: Legal Counsel

Cc: O.C. Human Rights Commission